

MATTER OF GANTUS-ROBADILLA

In Deportation Proceedings

A-19380474

Decided by Board November 5, 1971

Respondent, whose conviction of an offense resulted only in a sentence to a period of probation, is not, as a matter of law, precluded by the provisions of section 101(f) (7) of the Immigration and Nationality Act from a showing of good moral character for the purpose of establishing statutory eligibility for voluntary departure under section 244(e) of the Act merely because he is on probation during the requisite statutory period.

CHARGE:

Order: Act of 1952—Section 241(a) (2) [8 U.S.C. 1251(a) (2)]—Nonimmigrant visitor—remained longer.

ON BEHALF OF RESPONDENT:

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(Brief filed)

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ON BEHALF OF SERVICE:

R. A. Vielhaber
Appellate Trial Attorney

The special inquiry officer, in his decision dated January 25, 1971, found the respondent deportable under the charge set forth in the order to show cause and denied him the privilege of voluntary departure. The respondent does not appeal the finding of deportability, but challenges only the denial of the privilege of voluntary departure. The appeal will be sustained and the respondent will be granted the privilege of voluntary departure.

The record relates to a 23-year-old married male alien, a native and citizen of the Dominican Republic. He entered the United States on or about June 3, 1967 as a temporary visitor authorized to remain until June 30, 1967, but remained longer. We agree with the special inquiry officer that deportability has been established by evidence that is clear, convincing and unequivocal.